

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Department of Law & Judiciary

Legal Affairs Division

Notification

8-5-2000/LA

The Goa Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Ordinance, 2000 (Ordinance No. 5 of 2000) which has been promulgated by the Governor of Goa on 16-5-2000, is hereby published for general information of the public.

Ashok N. P. Dessai, Under Secretary (Law).

Panaji, 17th May, 2000.

The Goa Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Ordinance, 2000

(Ordinance No. 5 of 2000)

Promulgated by the Governor of Goa in the Fifty-first Year of the Republic of India.

An Ordinance further to amend the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988.

Whereas the Legislature of the State of Goa is not in session and the Governor of Goa is satisfied that circumstances exist which render it necessary for him to take immediate action.

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Goa is pleased to promulgate the following Ordinance, namely:—

1. *Short title and commencement.*— (1) This Ordinance may be called the Goa Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Ordinance, 2000.

(2) It shall come into force at once.

2. *Amendment of Section 2.*— In the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988 (Act 17 of 1988) (hereinafter called the "principal Act"), in section 2,—

(i) after clause (d), the following Explanation shall be inserted, namely:—

"Explanation.— A residential accommodation provided under Timeshare Agreement or under Package Deal Agreement or under any such system wherein the facility of availing residential accommodation during a given period in a year is allowed upon a lumpsum payment, shall be deemed to be a "hotel" for the purposes of this Act";

(ii) after clause (f), the following Explanation shall be inserted, namely:—

"Explanation.— Wherever accommodation provided is under Timeshare Agreement or a Package Deal Agreement or any such system wherein only maintenance charges, by whatever name called, are collected periodically, over and

above lumpsum payment made, the charges for luxuries provided shall be determined as under:—

(i) Where a hotel is having any of the following facilities, Rs. 500/- per day for the accommodation facility actually availed.

Facilities

- (i) Swimming Pool.
- (ii) Health club.
- (iii) Tennis Courts.
- (iv) Golf Courses.
- (v) Shopping Arcade.

(ii) In all other cases, the charges for luxuries shall be worked out at Rs. 300/- per day for the accommodation facility actually availed."

3. *Amendment of section 5.*— In section 5 of the principal Act, for sub-section (2), the following shall be substituted, namely:—

"(2) There shall be levied a tax on the turnover of receipts at the following rates, namely:—

- | | |
|---|---|
| (a) Where the charge for luxury provided in a hotel is less than one hundred rupees per day | ... Nil |
| (b) Where the hotel providing luxury is classified or recognized as three star and above by the Department of Tourism, Government of India. | ... 12% of the charge per day of luxury provided. |
| (c) In any other case | ... 8% of the charge per day of luxury provided. |

Note: Where the luxuries provided in a hotel are under Time-share Agreement or under Package Deal Agreement or under any such system, the rate of tax for the charge of the luxuries provided shall be in accordance with clause (c) above.

Provided that where the charges are levied otherwise than on daily basis, then the charges for determining the tax liability under this section shall be computed proportionately for a day and based on the total period of occupation of the accommodation for which the charges are made"

MOHAMMED FAZAL
Governor of Goa

Notification

8-6-2000/LA

The Goa Sales Tax (Amendment) Ordinance, 2000 (Ordinance No. 6 of 2000), which has been promulgated by the Governor of Goa on 17-5-2000, is hereby published for general information of the public.

Ashok N. P. Dessai, Under Secretary (Law).

Panaji, 17th May, 2000.

The Goa Sales Tax (Amendment) Ordinance, 2000

(Ordinance No. 6 of 2000)

Promulgated by the Governor of Goa in the Fifty-first Year of the Republic of India.

An Ordinance further to amend the Goa Sales Tax Act, 1964 (4 of 1964).

Whereas the Legislature of the State of Goa is not in session and the Governor of Goa is satisfied that circumstances exist which render it necessary for him to take immediate action.

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Goa is pleased to promulgate the following Ordinance, namely:—

1. *Short title and commencement.*— (1) This Ordinance may be called the Goa Sales Tax (Amendment) Ordinance, 2000.

(2) It shall be deemed to have come into force on the first day of April, 2000.

2. *Amendment of section 7A.*— In section 7A of the Goa Sales Tax Act, 1964 (Act 4 of 1964) (hereinafter referred to as the "principal Act"), for sub-section (1), the following shall be substituted, namely:—

"(1) There shall be levied and collected from every dealer liable to pay tax under this Act whose gross turnover of sales exceeds two crores of rupees in a year, an additional tax at the rate/indicated below:—

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|---|---|
| (i) In respect of dealers whose gross turnover of sales exceeds two crores of rupees but does not exceed seven crores of rupees; | ... At the rate of 15 paise in the rupee on sales tax payable by such dealers for that year under this Act. |
| (ii) In respect of dealers whose gross turnover of sales exceeds seven crores of rupees but does not exceed fifteen crores of rupees; | ... At the rate of 20 paise in the rupee on sales tax payable by such dealers for that year under this Act. |
| (iii) In respect of dealers whose gross turnover of sales exceeds fifteen crores of rupees; | ... At the rate of 25 paise in the rupee on sales tax payable by such dealers for that year under this Act. |

Provided that, in calculating the additional tax payable by the dealer, the tax payable under this Act in respect of sales of declared goods specified under section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) shall not be taken into consideration:

Provided further that in calculating the gross turnover for purpose of levy of additional tax, the sales which are shown to the satisfaction of the Commissioner to have taken place outside the State shall be excluded"

3. *Amendment of section 15.*— In section 15 of the principal Act, after sub-section (2), the following shall be inserted, namely:—

"(2A)— Notwithstanding anything contained in sub-section (4) of section 17, if the dealer fails to furnish any returns as required under sub-section (2) the Commissioner or any other person appointed under sub-section (2) of section 3 shall impose a penalty of Rs. 500/- or 2% of the amount of tax payable, whichever is more, in respect of the period for which such returns relate. The amount of penalty shall be enhanced to Rs. 1000/- or 4% of the amount of tax payable, whichever is more, if the default is for two consecutive return periods or more"

4. *Insertion of new section 15B.*— After section 15AA of the principal Act, the following shall be inserted, namely:—

"15B. *Tax deduction at source.*— (1) Notwithstanding anything contained in this Act, any employer including the Central Government, the State Government, or an individual, or a commercial or trading undertaking of the Central Government or of the State Government, any Company registered under the Companies Act, 1956, any local authority or any person or dealer registered under this Act shall deduct tax from, and out of the amounts payable by such employer to a dealer to whom a Works Contract has been awarded involving transfer of property in goods (whether as goods or in some other form), at the rate of 3% on half the value of the Works Contract undertaken by such dealer which shall be deemed to be on account of transfer of property of goods in the execution of such Works Contract:

Provided that, no such deduction shall be made where the amount or the aggregate of the amount payable to a dealer by such employer is less than thirty thousand rupees during a year.

(2) The tax deducted under sub-section (1) shall be remitted to the Government treasury by the said employer making such deduction within 30 days from the end of the month during which deduction of the amount is made.

Provided that the employer shall remit into the Government treasury the full amount of tax due and deductible by him under sub-section (1) from the dealer irrespective of the actual amount of tax deducted by him from such dealer.

(3) Any such employer making such deduction under sub-section (1), shall, in respect of every month in which such deduction is made, send to the prescribed authority a statement in the prescribed form within the prescribed time containing details of the Works Contract under execution and tax deducted thereon, and shall furnish a certificate in the prescribed form to the dealer specifying the amount so deducted and such other particulars as may be prescribed.

(4) Any such employer who remits the tax into the Government treasury under sub-section (2) shall be deemed to have made payment of tax under the authority of the said dealer.

(5) If any such employer fails to remit into the Government treasury the amount due and deductible as required by sub-section (2) within the specified time, the assessing authority, after such enquiry as it deems fit and after giving to such

employer a reasonable opportunity of being heard, on being satisfied that the said employer has failed to discharge the liability under sub-section (2), shall levy and recover from the employer interest at the rate of 2% per month or part thereof on the amount due and deductible, and by order in writing shall direct such employer to pay the interest in addition to such amount.

(6) No such deduction shall be made under sub-section (1) in respect of such dealers, as may be notified by the Commissioner from time to time.

(7) If any Works Contract for execution for the authorities specified in sub-section (1), involves only labour or services but does not involve transfer of property in goods and it is certified to be so by the appropriate assessing authority or by the assessing authority of the area on an application made by any dealer, the provisions of sub-section (1) shall not apply and every such application shall be disposed of by the assessing authority within one month from the date of receipt, either by issue of certificate as aforesaid or by endorsement intimating ineligibility to such a certificate to the dealer, as the case may be.

(8) In respect of any other Works Contract which involves partly labour or services and partly transfer of property in goods, the total amount on which tax is calculable under sub-section (1) shall be the total amount payable to the dealer as reduced by 25% thereof as tentatively representing cost of labour or services.

(9) Payment by way of deduction in accordance with the provisions of this section shall be without prejudice to any other mode of recovery of tax due under this Act from the dealer executing the Works Contract"

5. *Amendment of section 17.*— In sub-section (6) of section 17 of the principal Act, —

(i) for the words "four years", the words "two years" shall be substituted;

ii) after second proviso, the following proviso shall be added, namely:

"Provided also that assessments for the period upto 31-3-99 shall be completed not later than 31-3-2001:

Provided further that the Government or the Commissioner may, if it is considered necessary so to do, extend the period specified in this

sub-section by a further period of one year or six months, as the case may be."

6. *Amendment of section 20.*— In section 20 of the principal Act,—

(i) the following Explanation shall be added to sub-section (2) thereof, namely:—

"*Explanation.*— For the purpose of this section, accounts, registers and documents shall include accounts, registers and documents maintained in any electronic form such as computers, etc.";

ii) after sub-section (2), following sub-section shall be inserted, namely:—

"(3) If the dealer fails to comply with the provisions of sub-section (1) or sub-section (2), the Commissioner or any other person appointed under sub-section (2) of section 3 may, after giving the dealer an opportunity of being heard, impose a penalty of Rs. 500/-".

7. *Insertion of new sections 20A and 20B.*—After section 20 of the principal Act, the following sections shall be inserted, namely:—

"20A. *Certain dealers to issue Bill or Cash Memo.*—(1) Every dealer liable to pay tax under this Act and whose taxable turnover exceeds one lakh rupees in a year shall, in respect of every sale of taxable goods made by him, issue a bill or cash memo to the purchaser, signed and dated by him or his servant, manager, or agent showing such particulars as may be prescribed and shall keep the counterfoil or duplicate of such bill or cash memorandum duly signed and dated and preserve it for a period of not less than five years from such date:

Provided that, unless the purchaser so requires, it shall not be necessary for a dealer to issue a bill or cash memorandum in respect of a transaction where the total value does not exceed one hundred rupees in each case but shall, in respect of all such transactions, prepare a consolidated bill or cash memo at the close of the day in respect of all such sales by recording separately as and when they are effected and include them in his books of accounts and statements or returns in accordance with the provisions of this Act.

(2) If the Commissioner or any other person appointed under sub-section (2) of section 3, is satisfied that any dealer has acted in contravention of sub-section (1) he shall, after giving such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty a sum equal to the amount of tax in respect of which such contravention has occurred or Rupees 500/-, whichever is less.

20B. *Audit of accounts.*— Every dealer whose gross turnover in a year exceed one crore rupees shall get his accounts audited by a Chartered Accountant and shall submit to the assessing authority a copy of the audited statement of accounts and certificates in the prescribed manner".

8. *Amendment of section 21.*—In section 21 of the principal Act, the proviso to sub-section (4) shall be omitted.

9. *Amendment of section 30.*—In section 30 of the principal Act, —

(i) After clause (f) the following shall be inserted, namely:—" (ff) contravenes the provision of section 20B; or"

ii) After clause (k) the following shall be added namely:—

"or contravenes any other provision of this Act or notification issued thereunder".

10. *Amendment of section 31A.*— The existing section 31A of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Any sum collected by way of tax by any person in contravention of sub-section (2) of section 7A or of section 16 shall be forfeited to the State Government in addition to penalty leviable under sub-section (1), after giving such person reasonable opportunity of being heard."

11. *Insertion of new sections 33A and 33B.*— After section 33 of the principal Act, the following new sections shall be inserted, namely:—

"33A. *Officers required to assist the Officers of Sales Tax.*— All Officers of Police, State Excise and Officers of the Directorate of Transport are hereby empowered and required to assist the officers of Sales Tax Department, as may be required, in the execution of this Act.

33B. *Power to stop and search conveyances and seizure of goods.*— (1) Where an officer of Sales Tax, not below the rank of Sales Tax Inspector, has reason to believe that any conveyance is used to transport goods with an intention to evade tax, he may stop and search such conveyance.

(2) Where the officer is of the opinion that —

(i) goods under transport are not covered by declaration specified in sub-section (2) of Section 33 or;

(ii) a declaration relating to particulars of goods as made under sub-section (2) of section 33 is false,

he may, after recording the reasons, seize such goods and give receipts thereof to the person from whose possession or control the goods are seized".

Provided that a report on such seizure shall be forwarded to the Assistant Commissioner of Sales Tax, not later than twenty four hours of such seizure.

(3) The Officer referred to in sub-section (1) may require the person transporting such goods to appear before an Officer not below the rank of Assistant Sales Tax Officer who shall, notwithstanding anything contained in sub-section (3) or sub-section (4) of section 17, hold such enquiry as deemed fit and provisionally assess the goods to tax and impose penalty not exceeding one-and-a-half-times of the tax so assessed and the owner of such goods shall then be required to pay tax and penalty thus determined within ten days, whereupon the goods seized shall be released.

(4) If the tax and penalty referred to in sub-section (3) is not paid within the period specified, the goods seized shall be disposed off in public auction and the sales proceeds shall be adjusted towards the demand raised. If the sales proceeds are more than the demand raised, the excess amount shall, after deducting the charges incurred by the State, be refunded in the manner prescribed in the Fourth Schedule to the Goa Sales Tax Rules, 1964.

(5) Notwithstanding anything contained in sub-section (2) or sub-section (3) or sub-section (4), the Assistant Commissioner of Sales Tax, may, on an application made, release any of the goods seized under sub-section (2) on furnishing of such security as may be necessary or on such conditions as deemed fit".

13. *Amendment of section 36.*— In sub-section (1) of section 36 of the Principal Act, the expression, "subject to the condition of previous publication", shall be omitted.

MOHAMMED FAZAL
Governor of Goa